



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
OFFICE OF THE DIRECTOR
33 WEST STATE STREET
P. O. BOX 039

TRENTON, NEW JERSEY 08625-0039
<https://www.njstart.gov>
Telephone (609) 292-4886 / Facsimile (609) 984-2575

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ROBERT A. ROMANO
Acting State Treasurer

JIGNASA DESAI-MCCLEARY
Director

September 4, 2015

Via Electronic Mail [ajenkinslester@spectrumpartners.net] and USPS Regular Mail

Angela M. Jenkins-Lester, President, CEO
Spectrum Partners, LLC
200 Centennial Avenue, Suite 200
Piscataway, NJ 98854

RE: Protest of Untimely Submission of Proposal
RFP #16-X-23864 Telecommunications Expense Management System (TEMS) Hosted

Dear Ms. Jenkins-Lester :

This correspondence is in response to your letter of protest dated and received August 31, 2015, referencing the subject Request for Proposal (RFP) and regarding the intended proposal submission by Spectrum Partners, LLC (Spectrum) to the Division of Purchase and Property (Division). The record of this procurement indicates that the Procurement Bureau (Bureau) of the Division did not receive Spectrum's proposal submission by the deadline. Your letter contends that Spectrum uploaded all required proposal documents prior to the 2:00 p.m. deadline on August 28, 2015, but was unable to reset its PIN and hence submit its proposal by the deadline. Notwithstanding your acknowledgement that the proposal was not submitted on time, you request that Spectrum nonetheless be permitted to submit a proposal for the subject RFP.

I have reviewed the record of this procurement, including the RFP, Spectrum's proposal, and relevant statutes, regulations, and case law. In addition, I have reviewed the electronic records relating to Spectrum's submission. This review has provided me with the information necessary to determine the facts of this matter and to render an informed determination on the merits of Spectrum's protest.

By way of background, the subject RFP was issued by the Bureau on behalf of the Department of the Treasury, Office of Information Technology (OIT), to solicit proposals from qualified bidders for a Telecommunications Expense Management System (TEMS) that will support OIT's wireline and wireless telecommunications billing responsibilities. The intent of the RFP is to award a contract to that responsible bidder whose proposal, conforming to the RFP, is most advantageous to the State, price and other factors considered.

Spectrum asserts in its letter of protest that prior to the 2:00 p.m. deadline, it uploaded "[a]ll documents associated with this proposal" through the Division's eBid website. However, its PIN did not

“work for this submission and by the time [Spectrum] reset the PIN through the eRFP website, [it was] past the 2:00 p.m. deadline.”

A review of the electronic records associated with this procurement shows that Spectrum began uploading proposal documents to the eBid website on August 26, 2015, and uploaded its final document to eBid on August 28, 2015, at approximately 1:49 p.m. Although these forms were uploaded into the system, the final proposal was not properly and timely submitted to the Division.

The administrative regulations that govern the Division’s advertised procurement process establish certain requirements that must be met in order for a proposal to be accepted. These regulations are stringently enforced to maintain the equal footing of all bidders and to ensure the integrity of the State’s bidding process. N.J.A.C. 17:12-2.2(a) provides in relevant part: “In order to be eligible for consideration for award of contract, the bidder’s proposal shall . . . [b]e submitted on or before the due date and time and at the place specified in the RFP [.]”

The subject RFP further provides:

1.3.2 SUBMISSION OF PROPOSAL

In order to be considered for award, the proposal must be received by the Procurement Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL BE REJECTED. THE DATE AND TIME ARE INDICATED ON THE COVER SHEET. . . .**

[(Emphasis in original.)]

In addition, within the segment of the subject RFP’s signatory page that lists base requirements applicable to all advertised competitive procurements, the requirement for timely submission of proposals is set forth as follows:

PURSUANT TO N.J. STATUTES, REGULATIONS AND EXECUTIVE ORDERS, PROPOSALS WHICH FAIL TO CONFORM WITH THE FOLLOWING REQUIREMENTS WILL BE SUBJECT TO REJECTIONS:

- 1) PROPOSALS MUST BE RECEIVED AT OR BEFORE THE PUBLIC OPENING TIME OF 2:00 PM EASTERN TIME ON AUGUST 28, 2015**

....

[(Emphasis in original.)]

Thus, the requirement for timely submission of a signed and complete proposal as mandated by the administrative rules that govern the Division’s procurements were clearly and repeatedly established by the provisions of the RFP. As a result, despite Spectrum’s apparent intent to reset its PIN and submit a proposal for the subject solicitation in advance of the proposal deadline, under the provisions set forth above, the Division cannot accept Spectrum’s uploaded documents as a timely submitted, signed proposal. This is my final agency decision.

This is an unfortunate situation as the Division encourages competition and appreciates the time an effort put forth in preparing Spectrum’s proposal. With the foregoing information in mind, bidders should be cognizant of the eBid and RFP instructions when submitting a proposal and to begin proposal

submission with ample time to accommodate for any unforeseen technological issues. The Division encourages Spectrum's participation in future solicitations and thanks you for your registration with NJSTART, at www.njstart.gov, the State's new eProcurement system.

Sincerely,



Maurice A. Griffin
Acting Chief Hearing Officer

JD-M:DF

c: G. Olivera
J. Strype